

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

TEXTRON INNOVATIONS INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C. A. No. 05-486 (GMS)
	)	
THE TORO COMPANY,	)	
	)	
Defendant.	)	

**DECLARATION OF DANIEL M. TREU**

OF COUNSEL:

Earl D. Reiland  
Thomas R. Johnson  
MERCHANT & GOULD P.C.  
3200 IDS Center  
80 South 8th Street  
Minneapolis, MN 55402  
(612) 332-5300

Richard L. Horwitz  
David E. Moore  
POTTER ANDERSON & CORROON LLP  
Hercules Plaza, 6<sup>th</sup> Floor  
1313 N. Market Street  
Wilmington, Delaware 19899-0951  
(302) 984-6000  
[rhorwitz@potteranderson.com](mailto:rhorwitz@potteranderson.com)  
[dmoore@potteranderson.com](mailto:dmoore@potteranderson.com)

*Attorneys for Defendant  
The Toro Company*

Dated: August 16, 2005

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

**TEXTRON INNOVATIONS, INC.,**

Plaintiff,

v.

**THE TORO COMPANY,**

Defendant.

CIVIL ACTION NO. 05-486 (GMS)

**DECLARATION OF DANIEL M. TREU**

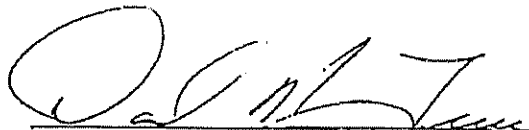
I, Daniel M. Treu, declare as follows:

1. I was employed by The Toro Company ("Toro") from March, 1977 to August 3, 2005. On August, 3, 2005 I retired from Toro.
2. I currently live at W 1230 County Road E., Alma, Wisconsin 54610. My residence is approximately a 2-hour drive to St. Paul, Minnesota.
3. While at Toro, my relevant positions were Principal Test Specialist and Senior Principal Test Technician. I held these positions from 1990 until I retired. In these positions I was responsible for product testing and design of Toro's commercial turf maintenance products, which include Toro's GroundsMaster 3500-D, 4500-D and 4700-D products. It is my understanding that these are among the principal products Textron, Innovations, Inc. is accusing of patent infringement in this case.
4. Through my position at Toro, I have extensive factual knowledge related to the operation, testing, evaluation and design of the GroundsMaster products. Example of the areas of that factual knowledge are:
  - a. The location and types of tests performed and their results;

- b. Design, performance, and capabilities of the tractor;
  - c. Design, performance, and capability of the cutting units; and
  - d. Evolution of the cutting units from reel to rotary cutting units.
5. In addition to my factual knowledge regarding the products at issue, I am also a named inventor on some Toro patents that cover features of the cutting units used on the accused products.
6. I continue to do work for Toro on a consulting basis. In my consulting, I regularly visit and conduct business at Toro's Bloomington, Minnesota facility.
7. I understand that this lawsuit is currently pending in Delaware. I believe that because of my extensive factual knowledge regarding testing and design of the products at issue, I may be asked to be a witness to testify at trial.
8. It would be very difficult and inconvenient for me to travel to Delaware to testify in this matter. The main reason I retired from Toro and moved to Wisconsin was to help run my brother's livestock farm. I did this because my brother was recently diagnosed with cancer and will be starting radiation therapy in September 2005, and will not be able to run the farm and care for the livestock. For these reasons, traveling to Delaware to testify would be very difficult and inconvenient, if not impossible.
9. It would be much less of a personal burden for me to testify if trial is in Minnesota, as I regularly travel to that district to conduct business.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed this 11<sup>th</sup> day of August 2005.

  
Daniel M. Treu

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, David E. Moore, hereby certify that on August 16, 2005, the attached document was hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

Edmond D. Johnson  
Peter B. Ladig  
The Bayard Firm  
222 Delaware Avenue, Suite 900  
Wilmington, DE 19801

I hereby certify that on August 16, 2005, I have Federal Expressed the documents to the following non-registered participants:

Scott L. Robertson  
Christopher C. Campbell  
Hunton & Williams LLP  
1900 K Street, N.W.  
Washington, DC 20006-1109

By: \_\_\_\_\_



Richard L. Horwitz  
David E. Moore  
Hercules Plaza, 6<sup>th</sup> Floor  
1313 N. Market Street  
Wilmington, Delaware 19899-0951  
(302) 984-6000  
[rhorwitz@potteranderson.com](mailto:rhorwitz@potteranderson.com)  
[dmoore@potteranderson.com](mailto:dmoore@potteranderson.com)